

1 **SENATE FLOOR VERSION**

2 March 6, 2025

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 950

6 By: Rosino and Murdock

7 [alcoholic beverages - retail sales - effective
8 date]

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10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 1. AMENDATORY 37A O.S. 2021, Section 3-118, is
12 amended to read as follows:

13 Section 3-118. No alcoholic beverages intended for ~~off-premise~~
14 off-premises or ~~on-premise~~ on-premises consumption shall be sold at
15 retail for less than a six percent (6%) markup, unless the sale
16 meets one or more of the following conditions:

17 1. Where seasonable merchandise is sold in bona fide clearance
18 sales, if advertised, marked and sold as such;

19 2. Where merchandise is imperfect or damaged or is being
20 discontinued and is advertised, marked and sold as such;

21 3. Where merchandise is sold upon the final liquidation of any
22 business;

23 4. Where merchandise is sold for charitable purposes or to
24 relief agencies;

1 5. Where merchandise is sold on contract to departments of the
2 government or governmental institutions;

3 6. Where merchandise is sold by any officer acting under the
4 order or direction of any court; or

5 7. Where merchandise is sold at any bona fide auction sale.

6 SECTION 2. AMENDATORY 37A O.S. 2021, Section 3-123, as
7 amended by Section 3, Chapter 94, O.S.L. 2023 (37A O.S. Supp. 2024,
8 Section 3-123), is amended to read as follows:

9 Section 3-123. A. It shall be unlawful for any person
10 privileged to sell alcoholic beverages to wholesalers, beer
11 distributors or retailers:

12 1. To discriminate, directly or indirectly, in price between
13 one wine and spirits wholesaler and another wine and spirits
14 wholesaler, when that manufacturer has not designated a single wine
15 and spirits wholesaler, or between one retailer and another retailer
16 purchasing alcoholic beverages bearing the same brand or trade name
17 and of like age and quality, unless otherwise provided by law; or

18 2. To grant, directly or indirectly, any discount, rebate, free
19 goods, allowance or other inducement.

20 B. The ~~ABLE~~ Alcoholic Beverage Laws Enforcement (ABLE)
21 Commission is hereby authorized to promulgate rules which are
22 necessary to carry out the purpose of this section and to prevent
23 its circumvention by the offering or giving of any rebate,
24 allowance, free goods, discount or any other thing or service of

1 value; provided, the posting or invoicing of charges per order for
2 processing minimum orders or per case for the handling or repacking
3 of goods by wine and spirits wholesalers and beer distributors for
4 sales in less than full case lots shall not constitute a violation
5 of this section.

6 C. For the violation of any provision of this section or of any
7 rule duly promulgated under this section, the ABLE Commission may
8 issue a written warning, issue a fine, or suspend or revoke a
9 license as follows:

10 1. For a first offense, a written warning which may be
11 accompanied by a fine not to exceed Five Thousand Dollars
12 (\$5,000.00);

13 2. For a second offense, not exceeding ten (10) days'
14 suspension of license; and

15 3. For a third offense, the ABLE Commission shall revoke the
16 license.

17 Provided, however, prior to suspending or revoking a license,
18 the ABLE Commission shall first provide written notice to a licensee
19 of the violation and a period of ninety (90) days following such
20 notice to cure or remedy such violation. For purposes of this
21 section, a "second offense" and "third offense" shall mean
22 violations that are related to or arising out of and occurring
23 within twelve (12) months of the ~~"first offense"~~ first offense.

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1 D. For purposes of this section, and except as otherwise
2 provided in subsection E of this section, "inducement" means
3 directly or indirectly offering, selling, trading, giving or
4 furnishing any discount, free goods, electronic or nonelectronic
5 refrigerated equipment, barrels, tubs, fixtures, dispensing
6 equipment, outdoor electric or nonelectric advertising structure
7 displaying the retailer's name, permanent shelving, supplies, gifts,
8 prizes, instantly redeemable coupons, premiums, retailer rebates,
9 services of any employee including, but not limited to, affixing
10 price labels or tags, routinely stocking product on shelves other
11 than the stocking of cold boxes, paying a third party for entering
12 product and price information into a retailer's computer system,
13 portal, website, spreadsheet or third-party system, handling product
14 that was not sold to the retailer by the licensee, paying a slotting
15 fee, selling on consignment, operating a retailer's cash register,
16 conducting janitorial services, providing decorations, samples of
17 alcoholic beverages, personal property or other inducement or thing
18 of value to any retail spirit, retail beer, retail wine, beer and
19 wine, mixed beverage, caterer, bottle club or special event
20 licensee, wine and spirits wholesaler or beer distributor, their
21 agents or employees.

22 E. It shall not be deemed an inducement for a brewer, beer
23 distributor, small brewer self-distributor or brewpub self-

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1 distributor to voluntarily take the following merchandising actions
2 with the permission of the retail licensee:

3 1. Furnish ~~point of sale~~ point of sale advertising materials
4 and consumer advertising specialties, as those terms are defined in
5 27 C.F.R., Section 6.84 and in compliance with the other limits and
6 restrictions provided in 27 C.F.R., Section 6.84;

7 2. Give or sell product displays, including, but not limited
8 to, barrels and tubs, provided that the value of such displays does
9 not exceed the limits and restrictions provided in 27 C.F.R.,
10 Section 6.83;

11 3. Build product displays, accessible to the customer for the
12 product being delivered by the beer distributor;

13 4. Affix pricing to the shelf strip or product display for the
14 product being delivered by the beer distributor, small brewer self-
15 distributor or brewpub self-distributor, or brewed by the brewer;

16 5. Routinely stock and restock shelves and cold boxes and
17 rotate product that has been sold to the retail licensee by the beer
18 distributor, small brewer self-distributor or brewpub self-
19 distributor, or brewed by the brewer;

20 6. Periodically perform product resets, with permission of the
21 retail licensee, pursuant to a provided shelf plan or shelf
22 schematic;

23 7. Furnish things of value to a temporary retailer, as defined
24 in 27 C.F.R., Section 6.85;

1 8. Sell equipment or supplies to a retail licensee, provided
2 the equipment or supplies are sold at a price not less than the cost
3 to the industry member and payment is collected within thirty (30)
4 days of the sale;

5 9. Install dispensing accessories at the retail location, as
6 long as the retailer bears the cost of installation including
7 equipment; or furnish, give or sell coil cleaning services to a
8 retailer;

9 10. Withdraw quantities of beer or cider in undamaged, original
10 packaging from the retail licensee's stock, provided the beer
11 distributor, small brewer self-distributor, brewpub self-distributor
12 or brewer sold such beer, directly or indirectly, to the retail
13 licensee and such removal is otherwise permitted under Section 3-115
14 of this title; provided, however, replacing with beer or cider of
15 equivalent value shall not be considered a consignment sale;

16 11. Provide mail-in rebates for beer, cider and nonalcoholic
17 beverage merchandise items, funded by the brewer and redeemed by the
18 brewer, either by itself or through a third-party fulfillment
19 company, for a discount or rebate on the beer, cider or nonalcoholic
20 item;

21 12. Provide a recommended shelf plan or shelf schematic to a
22 retail licensee for all or any portion of the inventory sold by the
23 retail licensee;

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1 13. Furnish or give a sample of beer or cider to a retailer who
2 has not purchased the brand from that brewer, beer distributor,
3 small brewer self-distributor or brewpub self-distributor within the
4 last twelve (12) months, provided that the brewer, beer distributor,
5 small brewer self-distributor or brewpub self-distributor may not
6 give more than thirty-six (36) ounces of any brand of beer or cider
7 to a specific retailer;

8 14. Furnish or give newspaper cuts, mats or engraved blocks for
9 use in retailers' advertisements;

10 15. Package and distribute beer or cider in combination with
11 other nonalcoholic items for sale to consumers;

12 16. Give or sponsor educational seminars for employees of
13 retailers either at the brewer, beer distributor, small brewer self-
14 distributor or brewpub self-distributor's premises or at the
15 retailer's establishment, including seminars dealing with use of a
16 retailer's equipment, training seminars for employees of retailers
17 or tours of the brewer, beer distributor, small brewer self-
18 distributor, or brewpub self-distributor's plant premises, provided
19 that the brewer, beer distributor, small brewer self-distributor or
20 brewpub self-distributor shall not pay the retailer for the
21 employees' travel, lodging or other expenses in conjunction with an
22 educational seminar but may provide nominal hospitality during the
23 event;

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1 17. Conduct tasting or sampling activities at a retail
2 establishment and purchase the products to be used from the retailer
3 so long as the purchase price paid does not exceed the ordinary
4 retail price; provided, a beer distributor shall not be required to
5 provide labor for such sampling activities;

6 18. Offer contest prizes, premium offers, refunds and like
7 items directly to consumers so long as officers, employees and
8 representatives of brewers, beer distributors, small brewer self-
9 distributors, brewpub self-distributors and licensed retailers are
10 excluded from participation;

11 19. List the names and addresses of two or more unaffiliated
12 retailers selling the products of a brewer, beer distributor, small
13 brewer, small brewer self-distributor or brewpub self-distributor in
14 an advertisement of such brewer, beer distributor, small brewer,
15 small brewer self-distributor or brewpub self-distributor so long as
16 the requirements of 27 C.F.R., Section 6.98 are satisfied,
17 considering applicable guidance issued by the United States
18 Department of the Treasury Alcohol and Tobacco Tax and Trade Bureau;
19 provided, nothing in the Oklahoma Alcoholic Beverage Control Act
20 shall prohibit a retail, mixed beverage, on-premises beer and wine,
21 public event, special event, charitable auction, charitable
22 alcoholic beverage event, or complimentary beverage licensee from
23 communicating with a brewer, beer distributor, small brewer, small
24 brewer self-distributor or brewpub self-distributor on social media

1 or sharing media on the social media page or site of a brewer, beer
2 distributor, small brewer, small brewer self-distributor or brewpub
3 self-distributor. A retail, mixed beverage, on-premises beer and
4 wine, public event, special event, charitable auction, charitable
5 alcoholic beverage event, or complimentary beverage licensee may
6 request free social media advertising from a brewer, beer
7 distributor, small brewer, small brewer self-distributor or brewpub
8 self-distributor; provided, nothing in this section shall prohibit a
9 brewer, beer distributor, small brewer, small brewer self-
10 distributor or brewpub self-distributor from sharing, reposting or
11 forwarding a social media post by a retail, mixed beverage, on-
12 premises beer and wine, public event, special event, charitable
13 auction, charitable alcoholic beverage event, or complimentary
14 beverage licensee, as long as the sharing, reposting or forwarding
15 of the social media post does not contain the retail price of any
16 alcoholic beverage. No brewer, beer distributor, small brewer,
17 small brewer self-distributor or brewpub self-distributor shall pay
18 or reimburse a retail, mixed beverage, on-premises beer and wine,
19 public event, special event, charitable auction, charitable
20 alcoholic beverage event, or complimentary beverage licensee,
21 directly or indirectly, for any social media advertising services.
22 No retail, mixed beverage, on-premises beer and wine, public event,
23 special event, charitable auction, charitable alcoholic beverage
24 event, or complimentary beverage licensee shall accept any payment

1 or reimbursement, directly or indirectly, for any social media
2 advertising service offered by a brewer, beer distributor, small
3 brewer, small brewer self-distributor or brewpub self-distributor.
4 For purposes of this paragraph, "social media" means a service,
5 platform or site where users communicate with one another and share
6 media, such as pictures, videos, music and blogs, with other users
7 free of charge; or

8 20. Entering product and price information into a retailer's
9 portal, website, spreadsheet or third-party system. A brewer may
10 pay for a third-party system that provides data and pricing services
11 to the brewer or a beer distributor.

12 F. It shall not be deemed an inducement for a brewer, beer
13 distributor, small brewer self-distributor or brewpub self-
14 distributor to engage in the following marketing activities,
15 provided that the brewer, beer distributor, small brewer self-
16 distributor or brewpub self-distributor shall not pay the retailer's
17 travel costs other than those for local transportation or lodging:

18 1. Provide tickets to a retailer for a sporting or
19 entertainment event so long as a representative of the brewer, beer
20 distributor, small brewer self-distributor or brewpub self-
21 distributor attends the event with the retailer;

22 2. Provide food and beverage to a retailer for immediate
23 consumption;

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- a. at a meeting at which the primary purpose is the discussion of business,
- b. at a convention when the food and beverages are offered to all participants, or
- c. at a sports or entertainment event that the representatives of a brewer, beer distributor, small brewer self-distributor or brewpub self-distributor attend with the retailer;

3. Participate in retailer association activities by engaging in the following actions:

- a. displaying products at a convention or trade show,
- b. renting display booth space if the rental fee is the same as paid by all exhibitors at the event,
- c. providing its own hospitality which is independent from association-sponsored activities,
- d. purchasing tickets to functions and paying registration fees if the payments or fees are the same as paid by all attendees, participants or exhibitors at the event, or
- e. making payments for advertisements in programs or brochures issued by retailer associations at a convention or trade show; or

4. Giving or selling outdoor signs to a retailer so long as the following requirements of 27 C.F.R., Section 6.102 are satisfied:

- 1 a. the sign bears conspicuous and substantial advertising
2 matter about the product or the brewer, beer
3 distributor, small brewer self-distributor or brewpub
4 self-distributor which is permanently inscribed or
5 securely affixed,
6 b. the retailer is not compensated, directly or
7 indirectly, such as through a sign company, for
8 displaying the signs, and
9 c. a permanent outdoor sign does not contain the
10 retailer's name.

11 G. It shall not be deemed an inducement or a discriminatory
12 action for a brewer, beer distributor, small brewer self-
13 distributor, brewpub self-distributor, or a wine and spirits
14 wholesaler to establish individualized servicing and delivery
15 schedules, including minimum order guidelines, for its retailers
16 based on each retailer's actual needs, including, without
17 limitation, on the basis of the retailer's sales volume.

18 SECTION 3. This act shall become effective November 1, 2025.

19 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND INSURANCE
20 March 6, 2025 - DO PASS AS AMENDED BY CS